SUPREME COURT, U.S.

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NO. 27

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1969

Kenneth Wayne Knaack and
Milton Segoviano
Petitioners,

v.

United States of America,
Respondent

Petition for Writ of Certiorari to
The United States Court of Appeals for the
Seventh Circuit

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

To the Honorable, The Chief Justice, and the Associate Justices of the Supreme Court of the United States.

OPINION BELOW

Petitioners, Kenneth Wayne Knaack and Milt Segoviano, were found guilty by a jury in the United States District Court for the Northern District of Illinois, Eastern Division of having on April 12, 19[illegible] entered the Chicago Heights National Bank, the Deposits of which were insuredby Federal Deposit Insurance Corporation, with the intent to commit a larceny therein, in violation of Title 18, Sec. 2113 (a) U. S. C., as alleged in the one count indictment. Judgments were entered on said guilty findings and Knaack and Segoviana were sentenced to the custody of the Attorney General of the United States for a period of twelve and fifteen years respectively. No opinion was rendered by the trial court.

The opinion of the United States Court of Appeals for the Seventh Circuit was rendered on April 11, 1969, and is thus far unreported. The opinion is appended hereto, appendix pages 1-15.

STATEMENT OF JURISDICTION

The Judgments and sentences of the District Court were entered on March 21, 1967. The opinion of affirmance by the Court of Appeals was filed on April 11, 1969. Rehearing was denied on May 14, 1969.

An extension of time to June 20, 1969 within which to file a petition for certiorair was granted on June 17, 1969 and a further extension was granted on June 20, 1969 to file said petition on or before June 23, 1969.

The jurisdiction of this Court is invoked under Title 28, Section 1254 (1), United States Code.

QUESTIONS PRESENTED

Did not the admission into evidence of a prior arrest and robbery charge against petitioner, Segoviano, for which he had been acquitted, the prosecution's argument to the jury and the court's instruction thereon, deny petitioner fundamental fairn ess and a fair trial?

After ten hours of deliberation and after having advised the court, in response to the court's inquiry that it could not make any projection of when it might arrive at a verdict, did not the court's modified Allen charge to the jury deny petitioner a fair trial?

Did not the trial court's advocacy for the prosecution deny petitioners fundamental fairness?

Did not the court's instruction that witnesses are presumed to speak the truth violate petitioner's constitutional right of presumption of innocence and the government's burden of proof?

CONCISE STATEMENT OF THE CASE

It was the governments version of the facts that at about 12:30 A. M. Chicago Heights police officers were dispatched to the Chicago Heights Illinois National

Bank in response toa burglar alarm. Upon their arrival, they found no evidence of any forcible entry into the bank. At the rear of the bank, the officers found the second floor fire escape door open and two men standing on the ground near the fire escape. One of the officers pursued the men who went north and then through a hole in the fence on the railway right of way which ran behind the bank. Petitioner Knaack was arrested a block north of the bank and petitioner Segoviano was arrested at 17th Street and the railroad tracks directly to the rear of the bank.

It was petitioners version of the facts that each of them was arrested by the police in the utter chaos confusion and crowd spectator interest that ensued upon the arrival of the police and ensuing chase by them.

ARGUMENT AMPLIFYING THE REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT

Did not the admission into evidence of a prior arrest and robbery charge against petitioner Segoviano, for which he had been acquitted, the prosecution argument to the jury and the court's instruction thereon, deny petitioner fundamental fairness and a fair trial?

Of what betterment is it to the administration of justice for this court to repeatedly pronounce the secred constitutional rights of an accused, when an accused cannot receive a fair trial in conformity with the most simple rules of evidence? Petitioner, Segoviano testified that he had become a Chicago Heights police officer in April, 1960 and that he terminated this employment by resignation in Feb., 1964.